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April 15, 2008

United States District Court
Northern District of California
Attn: Teresa De Martini, Deputy Clerk for
Judge Samuel Conti
450 Golden Gate Ave.
San Francisco, CA 94102

Chelsea LLC, et al. v. Regal Stone Ltd., et al.
USDC Case No. C-07-5800-SC

Pursuant to Local Rule 16-10(d), the undersigned counsel jointly submits this cover letter and attached February 22, 2008 Case Management Statement for the April 25, 2008 Case Management Conference. The information provided in the attached February 22, 2008 statement submitted continues to be accurate and true, with the additional issues for the Court:

I. Compliance with Court's Order of April 25, 2008
A. Plaintiff's Statement

On January 17, 2008, Plaintiffs filed a motion with the Court regarding, *inter alia*, supervision of Defendants' "communications" with unrepresented, absent Class members. The motion was filed by Plaintiffs due to Defendants' *ex parte* misrepresentations with absent class members regarding the OPA process and the Class action. The matter was heard on February 22, 2008. At the hearing, the Court granted Plaintiffs' motion. See Order of February 22, 2008 and transcripts (Decl. of Adel A. Nadji Re: Supplemental Case Management Statement Exhibits, Exs. 1 & 2).

After the hearing, Defendants refused, in Plaintiffs' view, to comply with the Court's Order. See Ex. 1, Ex. A, and Ex. 2. Defendants claimed, essentially, that Plaintiffs' motion was not granted and the Defendants did not have to "modify" or otherwise limit their *ex parte* communications with absent class members. See Ex. A. Accordingly, Plaintiffs request that the Court again order Defendants limit improper *ex parte* communications with Class members and submit to the Plaintiffs and the Court, for approval, (i) a revised "claim form" that appropriately complies with the Court's Order and (ii) notifies all absent class members of the Court's ruling regarding the Class action.

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B. Defendants Fleet Management, Ltd.'s and Regal Stone, Ltd.'s Statement

Plaintiffs have mischaracterized the Court's February 22, 2008 Order. The Court granted Plaintiffs' motion in part, but did not order Defendants to seek approval from Plaintiffs' counsel or the Court with respect to their communication with OPA claimants. Defendants have complied with the Court's Order and have not obtained further releases from OPA claimants.

On February 26, 2008, Defendants advised Plaintiffs' counsel that Hudson Marine is taking steps to fully comply with the Court's February 22, 2008 Order. (see Ex. A) Although, as noted, the Court did not require Defendants to provide Plaintiffs' counsel with a revised claim form or obtain Plaintiffs' approval of the form being used, Defendants sent Plaintiffs' counsel correspondence in which they described the efforts Hudson Marine has undertaken to comply with the Court's Order. (see Ex. B) In that correspondence, Defendants explained to Plaintiffs' counsel that Hudson Marine is currently providing claimants who participate in the claims process with a Receipt and Acknowledgment of Compensation in compliance with the Court Order and included a form Receipt for Plaintiffs' counsel's reference. Defendants further explained that they believe it is premature to provide notice to claimants who have previously executed releases advising them that they are not precluded from "becoming a Plaintiff class member" in a class action because no class action has been certified. If a class is certified, Hudson Marine will provide notice to potential class members advising them that any previous release signed in connection with the claims process will not preclude them from becoming a Plaintiff class member in the class action.

C. Defendant Hanjin Shipping Co., Ltd.'s Statement

Defendant Hanjin Shipping Company, Ltd., is not a party to this dispute and takes no position on it.

II. Lifting of Discovery Stay

A. Plaintiff's Statement

At the last Case Management Conference, the Court issued a "stay" of the discovery case. At this juncture, with the "OPA" requests a non-issue, the Plaintiffs need discovery to proceed. Any further "stay" of the discovery in the case will only delay the case and severely prejudice Plaintiffs' ability to proceed to the next phase of the case.

The Defendants' "discussions" to stay the United States "civil" case are irrelevant to the civil plaintiffs' need for discovery in this case. The U.S. civil case does not represent the Class Plaintiffs' injuries, nor are they seeking damages for the Class Action Plaintiffs. The fact that a criminal case is pending is irrelevant — and any further delay pending the outcome of the

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criminal case could significantly prejudice the Class Action Plaintiffs' case and right to a "speedy" recovery.

In the present case, the only criminal charges pending are against non-defendants. Where, as here, the civil defendants are not subject to criminal charges, therefore, the "inappropriateness of a stay is manifest." *In re Mid-Atlantic Toyota Antitrust Litigation*, 92 F.R.D. 358, 360 (D. Md. 1981). Indeed, in view of the fact that the criminal proceedings may take years, Courts have repeatedly rejected efforts by defendants – even those named in indictments or 'targets' of a criminal investigation — to essentially postpone "indefinitely" the pending class action civil case. *See, e.g., Sterling National Bank v. A-1 Hotels International, Inc.*, 175 F. Supp 2d. 573, 575 (2nd Cir. 2001); *Paine Webber v. Andrus, Inc.*, 486 F. Supp. 1118 (SDNY 1980). This case has been pending since November, and thus far, with the exception of the production of some material by defendants as part of their 'initial' disclosures' Plaintiffs have been unable to conduct any discovery, whether on the merits or with respect to class discovery. Any further delay will only result in more delay of the class case and further prejudice the Plaintiffs, who suffered serious economic injury due to Defendants conduct.

B. Defendants Fleet Management, Ltd.'s and Regal Stone, Ltd.'s Statement

Defendants request that the Court maintain the stay on discovery because claimants are continuing to process claims through the OPA claims process. In addition, on March 17, 2008, the United States commenced criminal proceedings against John Cota, a primary witness in this case. John Cota is a defendant in two of the related cases proceedings before this court, *United States of America v. Regal Stone Ltd., et al.*, and *Shogren Living Trust et al v. Regal Stone, Ltd. et al (C-07-06045 SC)*. Defendants and counsel for the United States have been collaborating to come to an agreement regarding a stay in discovery in the civil case before this Court pending the outcome of the criminal proceedings against John Cota. Defendants request the Court stay all related matters, including this case, on the basis of the pending criminal proceeding and John Cota's role as a primary witness.

Defendants object to Plaintiffs "briefing" legal arguments in this Section. These arguments should be brought before the Court in a motion at the proper time.

C. Defendant Hanjin Shipping Co., Ltd.'s Statement

Hanjin Shipping Co., Ltd: Hanjin is of the view that discovery at this time should be limited matters necessary to a determination of class issues since the first order of business is a determination of whether this case should be a class action. In addition, to the extent that defendant Cota and the crew of the M/V Cosco Busan are either charged with a crime or potentially will be charged with a crime by the federal or state government, Hanjin expects that discovery of these witnesses will be impeded by assertions of Fifth Amendment privileges

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against self-incrimination by these witnesses and believes that it would be unfair to allow discovery to go forward on the merits as to the other parties while these witnesses are protected from discovery.

III. Dismissal Issue

A. Defendants Fleet Management, Ltd.'s and Regal Stone, Ltd.'s Statement

Defendants NSB Neiderlbe and Conti Cairo KG have requested on multiple occasions that Plaintiffs voluntarily dismiss them from this lawsuit and have provided Plaintiffs with documentation and declarations establishing that NSB Neiderlbe and Conti Cairo KG are not proper parties to this lawsuit. (see Ex. C) Plaintiffs have these for reference. If Plaintiffs do not voluntarily dismiss NSB Neiderlbe and Conti Cairo KG, Defendants will specially appear in order to file a Motion to Dismiss.

B. Plaintiff's Statement

As Plaintiffs have repeatedly indicated to the Defendants seeking dismissal of the case, Plaintiffs are in the process of considering their somewhat unusual request. As a condition of this dismissal, Plaintiffs have requested that the parties requesting a dismissal agree to a "Class" Tolling Agreement. See Ex. 5.

While Defendants have asked for the dismissal, they have yet to agree to a "Class" Tolling Agreement. See Ex. 7.

C. Defendant Hanjin Shipping Co., Ltd.'s Statement

Defendant Hanjin Shipping Company, Ltd., is not a party to this dispute and takes no position on it.

IV. Hanjin Shipping

Hanjin Shipping, Co., Ltd. answered on March 3, 2008. Hanjin did not sign the February 22, 2008 Case Management Statement but adopts the CMC as attached.

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Dated: April 15, 2008

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Dated: April 15, 2008.

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Dated: April 15, 2008.

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Encl. (Case Management Statement, February 22, 2008.)

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5 *Attorneys for Plaintiffs and*
6 *the Class Members*

7
8
9 **UNITED STATES DISTRICT COURT FOR**
10 **THE NORTHERN DISTRICT OF CALIFORNIA**
11

12 Chelsea, LLC, Mark Russo, Allen Loretz, and
13 Ivan Simpson, individually and on
behalf of all others similarly situated,

14 Plaintiffs,

15 v.

16 Regal Stone, Ltd., Hanjin Shipping, Co., Ltd.,
17 Conti Cairo KG, NSB Neiderelbe, Synergy
Maritime, Ltd. *In Personam*; M/V Cosco
18 Busan, their engines, tackle, equipment,
appurtenances, freights, and cargo *In Rem*,

19 Defendants.
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Case No. C-07-5800-SC
(and related Case Nos. C-07-6045 and
C-07-5926-SC)

**JOINT CASE MANAGEMENT
STATEMENT**

Date: February 22, 2008
Time: 10:00A.M.
Court: Courtroom No. 1
Before: The Honorable Samuel Conti

Plaintiffs Chelsea, LLC, Mark Russo, Allen Loretz, and Ivan Simpson, on behalf of themselves and all others similarly situated ("Plaintiffs"), and Regal Stone, Ltd., Claimant to Vessel, making a restricted appearance on behalf of Defendant M/V Cosco Busan ("Cosco Busan"), by and through their respective counsel of record, submit the following Joint Case Management Statement pursuant to Civil Local Rule 16-9 after their February 13, 2008 Case Management Conference / Initial Disclosure Conference. Plaintiffs' counsel provided a draft copy of the Joint Case Management Statement to Defendant Hanjin Shipping, Co., Ltd. ("Hanjin"), but counsel for Hanjin indicated that they have not had enough time to consider the issues set forth in the statement:

I. JURISDICTION AND SERVICE

Jurisdiction: This is an admiralty maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and is within this Court's admiralty and maritime jurisdiction under 28 U.S.C. § 1333 and Article III § 2 of the United States Constitution. Certain causes of action that arise under the laws of California are within this Court's supplemental jurisdiction 28 U.S.C. § 1367. Further, Plaintiffs contend that this Court has jurisdiction over this action because Plaintiffs have brought their claims as a putative class action lawsuit with over \$5,000,000 is at issue and there are more than one hundred putative class members. This Court has jurisdiction under the Extension of Admiralty Act. Defendant disputes that bringing this as a putative class action confers any jurisdiction to this court and Defendant intends to oppose any motion for class certification.

Service:

Plaintiffs Statement: Plaintiffs believe that they have served all named parties other than defendant Synergy Maritime, Ltd., which appears to be an entity located in India. Plaintiffs are in the process of serving defendant Synergy Maritime, Ltd., under provisions of The Hague Service Convention. Plaintiffs report the following parties have been served:

- Defendant NSB Neiderelbe was served on February 8, 2008.
- Defendant Conti Cairo KG was served on February 8, 2008.

- 1 • Defendant Cosco Busan accepted service on December 14, 2007. The M/V Cosco Busan
- 2 filed and served an answer on February 12, 2008.
- 3 • Defendant Hanjin Shipping, Co., Ltd. was served on January 11, 2008. Counsel for
- 4 Hanjin filed an appearance and have obtained an extension of time to respond to the
- 5 complaint.
- 6 • Defendant Regal Stone, Ltd. was served on January 11, 2008¹.

7 Defendant's Statement: Defendant disputes that Plaintiffs have properly served Regal

8 Stone, Ltd. M/V Cosco Busan was not served, however a Claim to the Vessel has been filed as

9 well as an Answer on behalf of the vessel, therefore the issue of service on the vessel is moot.

10 **II. FACTS**

11 Plaintiffs' Statement: As alleged in the Verified Complaint, on November 7, 2007, at

12 approximately 7:30A.M., the M/V Cosco Busan, a vessel bound for Asia, left the Port of

13 Oakland. Less than thirty minutes later, the Cosco Busan crashed into a support tower of the

14 Oakland Bay Bridge. The crash resulted in a huge breach in the ship's hull, where the fuel tanks

15 of the ship are located. The hole on the port side was reportedly at least 70 feet long, 12 feet

16 wide, and 3 feet deep. Unfortunately, instead of immediately notifying the authorities about the

17 magnitude of the problem, the ship's captain initially estimated less than 150 gallons of fuel

18 spillage. In reality, the 150 gallons turned into over 58,000 gallons of toxic "bunker oil." As the

19 day wore on, the oil "dispersed" into San Francisco Bay and later into the Pacific Ocean. The

20 ship's pilot has recently reported that the ship's onboard radar malfunctioned and the ship's

21 master may have provided confusing instructions to the captain. The non-economic damage to

22 the San Francisco Bay's fragile ecosystem is beyond dollars and cents. Moreover, because of the

23 conduct of the Defendants, and/or unseaworthiness of the M/V Cosco Busan, commercial

24 crabbers and other commercial fishers lost millions and millions of dollars. This Class Action

25 lawsuit seeks to economically compensate the victims of the spill, and punitive damages, as well

26 as appropriate equitable relief.

27 _____

28 ¹ A director of Regal Stone, Ltd. was served on January 11, 2008, yet defendant Regal Stone, Ltd. has not made an appearance. Plaintiffs intend to move for default.

1 Since filing of the complaint, Defendants and their apparent agent, Hudson Marine, have
2 initiated a claims process which is rife with misrepresentations, misleading omissions, and
3 coercion aimed at dissuading Putative Class Members from participating in either class action
4 and otherwise interfering with the relationship between the lead plaintiffs and their counsel.
5 Defendant appear intent on using the Claims Process to frustrate this important policy and
6 thereby avoid their full responsibility for the injuries suffered by Putative Class Members. Due
7 to the impact the unsupervised claims process has had on the class action and the class members
8 rights, the named plaintiffs in this case, joined by the plaintiffs attorneys with pending class
9 action cases in state court, have filed a motion to supervise the communications between the
10 defendants, their third party claims agent and the absent class members.

11 Defendant's Statement: Defendant disputes the allegations set forth above and in the
12 Complaint. Defendant asserts that all claims for loss as a result of the COSCO BUSAN oil spill
13 must be submitted to the Responsible Party according to the claims presentation requirement of
14 the Oil Pollution Act of 1990 ("OPA '90").

15 **III. LEGAL ISSUES**

16 This case involves compensation to fishermen and others directly impacted by the
17 November 7, 2007 Cosco Busan Oil Spill. The parties dispute the following legal issues:

18 **A. Claims Presentation Requirement**

19 Plaintiffs' Statement: Defendants take the unsupported view that all injured parties must
20 file a Claim under the federal OPA '90 statute. As the case law makes clear, OPA '90 is a
21 voluntary process and participation by an injured party is not prerequisite to filing a lawsuit or
22 obtaining a court recovery.

23 Defendant's Statement: Under OPA '90, the Responsible Party is required to establish a
24 claims process for the purpose of reimbursing affected parties for any injury. Further, Plaintiffs
25 are required to first submit their claims to the Responsible Party to determine if their claims can
26 be resolved through the claims process mandated by OPA '90. Because Plaintiffs have not done
27 so, this action should be dismissed pending Plaintiffs' submission of their claims to the
28 administration.

1 **B. Class Action Certification**

2 Plaintiffs' Statement: Class certification pursuant to Federal Rules of Civil Procedure
 3 ("FRCP") 23 is appropriate in this case because questions of law and fact will predominately be
 4 common to the Class members, as liability arises out of a single incident that involves a discrete
 5 group of people. Plaintiffs have no conflicts of interest with other members of the class and
 6 contend that all requisite elements for obtaining class certification are met under FRCP 23.

7 Defendant's Statement: Defendant contends that class action certification is not
 8 appropriate in this action because Plaintiffs cannot meet their burden of establishing the requisite
 9 elements for obtaining class certification under FRCP Rule 23.

10 **IV. MOTIONS**

11 **A. Plaintiffs' Ex Parte Motion for Order to Show Cause**

12 Plaintiffs' Statement: On January 17, 2008, Plaintiffs in this case, joined by the state
 13 Class Action Plaintiffs filed a *Motion For Order To Show Cause Why A Protective Order To*
 14 *Supervise Or Otherwise Limit Communications With Putative Class Members Should Not Issue.*
 15 The motion was filed after Plaintiffs' counsel learned that Defendant, through a third party
 16 (Hudson Marine), were attempting to circumvent the Court's oversight of class actions and
 17 engaged in *ex parte* communications with represented clients, named Plaintiffs and absent Class
 18 members. During the briefing of this motion, the Defendant continued, unabated, with
 19 attempting to lure absent class member and represented parties into the unapproved Claims
 20 Process. The undersigned counsel have been contacted by clients it represents with statements
 21 that clearly support the need for this Court to intervene and supervise the communications
 22 between the Defendant, the Defendant's claims administrator and the injured fishermen.

23 By way of the motion, Plaintiffs seek, *inter alia*, an Order that requires that::

24 1. Defendant, in cooperation with Class Plaintiffs (and subject to Court approval),
 25 will redraft, and submit for Court approval, a revised claim form and revised cover letter which
 26 Defendant and their agents will be required to exclusively use in communication with Putative
 27 Class Members.

28 2. Defendant distributes, in cooperation with Class Plaintiffs and subject to Court

1 approval, a curative notice with the revised claim form and revised cover letter to every Putative
 2 Class Member who has already signed any claim form with Defendant, Hudson Marine, or any
 3 other agent of the Defendant.

4 3. Upon approval of the revised claim form and revised cover letter, Defendant will
 5 open the Claims Process to all commercial fishermen with claims arising out of the Oil Spill.

6 This matter has been fully briefed. A hearing on the motion is currently scheduled for
 7 February 22, 2008, at 10:00 A.M.

8 Defendant's Statement: Defendant does not intend to restate the arguments set forth in its
 9 Opposition to Plaintiffs' *Ex Parte* Motion and its response to the U.S. Attorney's brief related
 10 thereto. As set forth in these submissions, Plaintiffs' *Ex Parte* Motion should be denied in its
 11 entirety.

12 **B. Motion for Class Action Certification**

13 Plaintiffs' Statement: Plaintiffs intend to file a motion for class certification.

14 Defendant's Statement: Defendant contends that class action certification should be
 15 denied because Plaintiffs cannot meet their burden of establishing the requisite elements for
 16 obtaining class certification under FRCP 23.

17 **C. Motion to Reduce or Vacate the Security**

18 Plaintiffs' Statement: Plaintiffs intend to oppose any motion brought by Defendants to
 19 cancel or reduce the security. Among other reasons, including jurisdictional grounds, the
 20 cancellation or reduction of the Letter of Undertaking would be inappropriate at this time
 21 because there is no other guarantee for ultimate recovery by Plaintiffs and class for damages
 22 against Defendant M/V Cosco Busan, which left U.S. waters on about December 20, 2007.

23 Defendant's Statement: Plaintiffs previously threatened to arrest the vessel COSCO
 24 BUSAN unless the vessel owner issued security. As a result, security in the form of a Letter of
 25 Undertaking in the amount of \$20,000,000 was issued to Plaintiffs' counsel. Defendant intends
 26 to move this Court for an order cancelling or reducing the security.

27 **V. AMENDMENT OF PLEADINGS**

28 This action was originally filed on November 15, 2007. Plaintiffs filed the Verified First

1 Amended Class Action Complaint for Damages and Equitable Relief on November 19, 2007.
2 Plaintiffs may amend the complaint as investigation and discovery continues and may add
3 additional claims as well.

4 **VI. EVIDENCE PRESERVATION**

5 Plaintiffs' Statement: Plaintiffs are taking steps to preserve all relevant documents and
6 information.

7 Defendant's Statement: Defendant is taking steps to preserve all relevant documents and
8 information. Defendant further believes that it is incumbent on Plaintiffs to preserve all evidence
9 in accordance with FRCP 26 and this District Court's standing order of March 1, 2007.

10 **VII. INITIAL DISCLOSURES**

11 Plaintiffs' Statement: Plaintiffs intend to comply, to the extent possible, with Rule 26
12 disclosures, ten (10) days after the parties' Rule 26 conference of February 13, 2008. During the
13 conference, Defendant claimed that Plaintiffs must provide 'claims' information for all of the
14 clients it represents, but at the same time, claimed that, Defendant intends to 'move to stay' the
15 case. Apparently, Defendant believes that Rule 26 is a one way street. Accordingly, Plaintiffs
16 may need to ask the Court for guidance on the issue of Rule 26 disclosure obligations in light of
17 Defendant's position on this issue.

18 Defendant's Statement: Contrary to Plaintiffs' assertions above, Defendant's counsel
19 explicitly advised Plaintiffs' counsel during their meet and confer conference that Defendant
20 would provide Plaintiffs' counsel with their Rule 26 disclosures prior to the initial Case
21 Management Conference on February 22, 2008.

22 **VIII. DISCOVERY**

23 Plaintiffs' Position: Plaintiffs have been provided a draft of the U.S. Attorney's Office
24 position on discovery and other issues, as outlined in the U.S. Attorney's Office joint case
25 management statement (dated February 12, 2008). Plaintiffs believe that the proposed "phasing"
26 works for the U.S. Attorney's case, in view of the nature of the issues and the damages sought by
27 the U.S. government. Plaintiffs in the class action believe that the civil class action does not
28

require any unique treatment of phasing of the discovery in the case. Plaintiffs intend to coordinate with all parties regarding deposition discovery, but also intend to proceed with merits and damage discovery during the next few months:

Plaintiffs' Proposed Schedule

Event	Plaintiffs' Proposed Dates
Fact discovery (fact and expert) commences (including written discovery and depositions)	February 15, 2008
Last day for Rule 26(a) Initial Disclosures and to enter protective/confidentiality order	February 28, 2008
Motion to dismiss filed by all served parties	March 1, 2008
Motion for class certification	June 1, 2008
Opposition to motion for class certification due	June 20, 2008
Reply in support of motion for class certification due	July 10, 2008
Hearing on motion for class certification	TBD
Fact discovery closes	October 1, 2008
Last day for exchange of expert reports	November 1, 2008
Last day for depositions of experts	November 31, 2008
Last day for "responsive" expert reports	December 15, 2008
Last day to file dispositive motions	January 15, 2009
Oppositions to dispositive motions	February 2, 2009
Reply briefs in support of dispositive motions due	February 15, 2009
Hearing on dispositive motions	TBD
Required Meeting Prior to Pretrial Conference	20 days prior to pretrial conference
Pretrial Conference Statement	10 court days before pretrial conference
Pretrial Conference	April 15, 2009
Trial	TBD

Defendant's Position: Defendant recommends that this Court stay discovery until Plaintiffs' claims are submitted to the Responsible Party through the claims process and either resolved or declined. Plaintiffs' claims will be rendered moot if they simply submit them to the Responsible Party and they are paid.

IX. CLASS ACTIONS (PURSUANT TO L.R. 16-9 (B))

Plaintiffs' Statement:

1. This action is maintainable under Rule 23(b)(3) of the Federal Rules of Civil Procedure.

2. The Class consists of "all commercial fishing operations, crab, shellfish,

bottomfish, herring fishing, and recreational charter vessel operations, which commercially fish and/or operate in and around the coastal waters of the San Francisco Bay Area and adjacent fishing areas grounds.”

3. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3) because, as set forth above, in the “Facts” section, common issues of law and fact predominate over any individual issues and certification of the claims as class claims is superior to other available methods for the fair and efficient adjudication of these claims. Plaintiffs and their counsel will fairly and adequately represent the interests of the Class. In addition, there would be enormous economies to the courts and parties in litigating these common issues on a class-wide basis rather than in individual trials. Plaintiffs foresee no difficulties in the management of this action as a class action.

4. Plaintiffs propose July 2008 for the Court to consider whether the case can be maintained as a class action.

Defendant’s Statement: Defendant contends that this action is not maintainable as a class action because Plaintiffs cannot meet their burden of establishing the requisite elements for obtaining class certification under FRCP 23.

X. RELATED CASES

Federal Cases:

- *USA v. M/V Cosco Busan et al.*, No. 07-6045-SC
- *Shogren Living Trust, et al v. Regal Stone, Ltd. et al.*, No. 07-5926-SC

San Francisco Superior Court Cases:

- *The City and County of San Francisco, et al. v. Regal Stone, Ltd., et al.*, No. CGC-07-469876
- *John Tarantino et al. v. Hanjin Shipping Co., Ltd.*, No. CGC-07-469379

XI. RELIEF

Plaintiffs Statement: As detailed in the Verified Complaint, Plaintiffs request that this Court enter a judgment against the Defendant and in favor of the Plaintiffs and the Class and award the following relief: (a) That this action be certified as a class action on behalf of the proposed Class described herein and that counsel of record be appointed to represent the Class;

(b) That a comprehensive Court-supervised “Clean-Up” Program be established; (c) For general and special damages in an amount to be proven at the time of trial; (d) For pre-judgment and post-judgment interest on the above general and special damages; (e) For restitution and disgorgement of all profits; (f) For compensatory and other damages, as the Court may determine; (g) For exemplary and punitive damages, to the extent permissible by law and in an amount to be proven at the time of trial, and sufficient to punish Defendant or to deter them and other from repeating the injurious conduct alleged herein or similar conduct; (h) Costs, including expert’s fees and attorney’s fees and expenses, and the costs of prosecuting this action.

Defendant’s Statement: Plaintiffs should be ordered to submit their claims to the Responsible Party and this matter should be dismissed pending the processing of those claims. If the Court decides to proceed with this action, Plaintiffs’ claims should be denied in their entirety.

XII. SETTLEMENT AND ADR

The parties have not participated in ADR or any formal settlement discussions.

Plaintiffs’ Statement: Plaintiffs have no objection to retaining a third party mediator to discuss class wide resolution of the plaintiffs case after initial discovery.

Defendant’s Statement: Defendant believes that the parties should be ordered to participate in ADR at the earliest possible date.

XIII. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES

The parties are not willing to submit this matter to a magistrate for all purposes.

XIV. OTHER REFERENCES

The parties do not believe that this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel of Multidistrict Litigation.

XV. NARROWING OF ISSUES

Plaintiffs’ Statement: The parties anticipate that there may be issues that can be narrowed by agreement or by motion as the case progresses. There are none at this time. The parties do not wish to bifurcate issues, claims, or defenses at this time.

Defendant’s Statement: All issues can be narrowed simply by proper presentation of

claims to the designated Responsible Party through the mandated claims process.

XVI. EXPEDITED SCHEDULE

Plaintiffs' Statement: Plaintiffs request trial set on or before March 2009. Defendant's contention that a stay in this case would expedite the proceeding before this Court. Plaintiffs disagree with this position and intend to oppose any such motion.

Defendant's Statement: Defendant recommends that the Court stay this case until Plaintiffs' claims are submitted to the Responsible Party through the claims process and either resolved or declined. However, should this Court decide to proceed, Defendant requests that this Court assist the parties in establishing a realistic schedule once all parties have been properly served and have appeared in this action.

XVII. SCHEDULING

Plaintiffs' Statement: Plaintiffs expect class certification motion to be filed on or before June 1, 2008. See *infra*, Section VIII.

Defendant's Statement: Defendant requests that the Court assist the parties in establishing a motion schedule once all parties have been properly served and have appeared in this action.

XVIII. TRIAL

Plaintiffs have requested a jury trial of this action. The parties anticipate that the trial of this action will take 21 court days.

XIX. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS

Plaintiffs' Statement: Plaintiffs are unaware of any specific persons, firms, partnerships, corporations (including parent corporations) or other entities other than the parties to have either a financial interest in the subject matter in controversy or in a party to the proceedings, or any other kind of interest that could be substantially affected by the outcome of the proceeding.

Defendant's Statement: Defendant will file its Disclosure of Non-Party Interested Entities or Persons prior to the Case Management Conference on February 22, 2008.

XX. OTHER MATTERS

There are no other matters to discuss at this time.

1 Dated: February 15, 2008

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2
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On Behalf of Plaintiffs and the Class

10 Dated: February 15, 2008.

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PROOF OF SERVICE

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Chelsea et al. v. Regal Stone, Ltd., et al.; No. 07-5800

I am employed in the County of San Francisco, State of California; my business address is 221 Main Street, Suite 1460, San Francisco, California 94105. I am over the age of 18 and not a party to the within action. On this date I served the following documents:

COVER LETTER AND JOINT CASE MANAGEMENT STATEMENT FOR APRIL 25, 2008

**DECLARATION OF ADEL A. NADJI RE: SUPPLEMENTAL CASE MANAGEMENT STATEMENT
EXHIBITS**

True and complete copies of the above documents were served on the following counsel and individuals by U.S. Mail:

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Counsel for the United States
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13 I declare that I am employed in the office of a member of the bar of this Court at whose
14 direction the service was made. I declare under penalty of perjury that the above is true and
15 correct.

16 Executed on April 15, 2008 at San Francisco, California.

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18 By: /s/ Adel A. Nadji
19 Adel A. Nadji
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